

APPENDIX C
LIST OF DOCUMENTS REVIEWED

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List of Court Documents (Court Docket)

1. Appointment of Expert (Document #63)
2. Civil Docket for Case #: 2:11-cv-00087
3. Formal Complaint by the Plaintiffs (Document #1)
4. Plaintiff's Motion for a Temporary Restraining Order (Document #2)
 - a. Attached – Affidavit of Maya Nye
5. Memorandum in Support of a Temporary Restraining Order (Document #3)
6. **Exhibit A:** CSB Investigation Report – BCS Explosion, 28 August 2008 (Document #6)
 - a. Attached – **Exhibit B:** Project Information – Inherently Safer Chemical Processes: The Use of Methyl Isocyanate (MIC) at Bayer CropScience
7. **Exhibit C-1:** Toxics and Flammables Worst Case Scenarios for Plants in the Institute Area (Document #7)
 - a. Attached – **Exhibit C-2:** Detailed Information on the BCS Plant Pertaining to the Information in Exhibit C-1
 - b. Attached – **Exhibit D:** Map of 25-Mile Radius Around BCS Plant
8. **Exhibit E** – News Article: *Trying to Limit Disclosure on Explosion* (Document #8)
9. **Exhibit F-1** – Verbatim Radio Transcripts from Metro-Fire Departments: August 28, 2008 – Bayer Explosion (Document #9)
 - a. Attached – **Exhibit F-2:** Additional Transcripts
 - b. Attached – **Exhibit F-3:** Additional Transcripts, and Bayer Response to the Incident
10. **Exhibit G** – House of Representatives Subcommittee on Oversight and Investigations: *Secrecy in the Response to Bayer's Chemical Plant Explosion*, April 21, 2009 (Document #10)
 - a. Attached – **Exhibit H-1:** Bayer CropScience RMP Information
 - b. Attached – **Exhibit H-2:** Prior Bayer CropScience RMP Information
 - c. Attached – **Exhibit I-1:** Citation and Notification of Penalty by the US Dept. of Labor to Bayer CropScience
 - d. Attached – **Exhibit I-2:** OSHA Settlement Agreement

- e. Attached – **Exhibit J:** News Article: *Will EPA or OSHA inspect the plant?*, February 2, 2011
 - f. Attached – **Exhibit K:** E-mail from Maya Nye to William DePaulo: *NAS Study – Congressional mandate*
 - g. Attached – **Exhibit L:** Chronology of the Union Carbide Corporation
 - h. Attached – **Exhibit M:** News Article – *Bayer Communication Issues Continue, County Officials Say*
 - i. Attached – **Exhibit N-1:** Bayer Inspection Report
 - j. Attached – **Exhibit N-2:** West Virginia Department of Environmental Protection Settlement Agreement
11. **Exhibit O** – West Virginia Department of Environmental Protection: *Consent Order Issued Under the Air Pollution Control Act* (Document #11)
- a. Attached – **Exhibit P:** Statement of William B. Buckner, President and Chief Executive Officer of Bayer CropScience, LP
 - b. Attached – **Exhibit Q:** Bayer News Release – Bayer CropScience to reduce operations in Institute, West Virginia, and close Woodbine, Georgia, site
 - c. Attached – **Exhibit R:** US Department of Homeland Security – *National Incident Management System*
12. Order Motioning Hearing Set for February 10, 2001 (Document #12)
13. Response by Bayer CropScience in Opposition to Plaintiffs’ Motion for Temporary Restraining Order (Document #13)
14. Affidavit of Christopher Evans, Sr. VP or Region N. America Industrial Operations for Bayer CropScience (Document #14)
15. Motion Hearing Held by Judge Goodwin (Document #15)
16. Order Pursuant to the Plaintiffs’ Motion for a Temporary Restraining Order (Document #16)
17. Discovery Hearing (Document #18)
18. Receipt for Bond Payment by the Plaintiffs (Document #19)
19. Certificate of Service for Plaintiffs’ First Discovery Request (Document #20)
20. Notice of Appearance of A.L. Emch on Behalf of Bayer CropScience (Document #22)
21. Certificate of Service filed by Bayer CropScience for *Defendant’s Response to Plaintiff’s Document Production Request* (Document #23)

22. Emergency Motion By Bayer CropScience for Clarification of and Relief from Temporary Restraining Order (Document #24)
23. Certificate of Service by Bayer CropScience for *Defendant's Response to Plaintiffs' Second Documentation Request* (Document #25)
24. Order Denying Emergency Motion By Bayer CropScience for Clarification of and Relief from Temporary Restraining Order (Document #26)
25. Certificate of Service by Bayer CropScience for *Defendant's Response to Plaintiffs' Interrogatory Third Documentation Request* (Document #27)
26. Certificate of Service by Bayer CropScience for *Defendant's Response to Plaintiffs' Fourth Document Production Request* (Document #28)
27. Certificate of Service by Bayer CropScience for *Defendant, Bayer CropScience LP, First Set of Interrogatories, Request for Production of Documents and Requests for Admission* (Document #29)
28. Joint Motion for Entry of Protective Order (Document #30)
29. Protective Order (Document #31)
30. Bond on Temporary Restraining Order Posted by Plaintiffs (Document #33)
31. Plaintiffs' Motion for Preliminary Injunction (Document #34)
 - a. Attached – News Article: *How will loss of Temik affect insect, nematode control?*
32. Plaintiffs' Memorandum in Support of Preliminary Injunction (Document #35)
 - a. Attached – Certificate of Service
33. Certificate of Service for *Defendant's First Discovery Request* (Document #36)
34. Amended Complaint by the Plaintiffs (Document #37)
35. Protective Order Setting Forth the Terms for Handling of Confidential Documents (Document #38)
36. Certificate of Service by Plaintiffs for *Defendant's Response to Plaintiffs' Fifth and Sixth Document Production Requests* (Document #39)

37. Certificate of Service by Bayer CropScience for *Defendant's First Production of Documents in Response to Plaintiffs' Requests for Production* (Document #40)
38. Order Granting the Joint Motion in Document #30 (Document #41)
39. Amended Certificate of Service by Bayer CropScience for *Defendant's First Production of Documents in Response to Plaintiffs' Requests for Production* (Document #42)
40. Status Conference Held by Judge Stanley (Document #43)
41. Order Directing that a Pretrial Conference is set for February 18, 2011 (Document #44)
42. Order that Neither the Attorney-Client Privilege nor Work-Product Protection is Waived by the Disclosure of Communications, Documents, or Other Materials (Document #45)
43. Exhibit and Witness List from Status Conference Hearing (Document #46)
44. Certificate of Service by Bayer CropScience for *Defendant's Second Production of Documents in Response to Plaintiffs' Requests for Production*(Document #47)
45. Exhibit and Witness List from Status Conference Hearing (Document #50)
 - a. Attached – Exhibits delivered to Judge Stanley:
 - i. **Exhibits A – D:** Bayer CropScience's responses to plaintiffs' first four document requests (plaintiffs' requests and Bayer's responses.
 - ii. **Exhibit E:** E-mail correspondence
 - iii. **Exhibit F:** Acute toxicity of MIC
 - iv. **Exhibit G:** Bayer CropScience MIC MSDS
 - v. **Exhibit H:** MIC reference sheet
 - vi. **Exhibit I:** Knovel content summary
46. Certificate of Service by Plaintiffs for *Plaintiffs' Disclosure of Witnesses and Exhibits, and Stipulation of Facts* (Document #48)
47. Initial Pretrial Conference (Document #49)
48. Certificate of Service by Bayer CropScience for *Defendant's Third Production of Documents in Response to Plaintiffs' Requests for Production* (Document #51)
49. Motion by Bayer CropScience to Exceed Page Limit for Defendant's Response in Opposition to Plaintiffs' Motion for Preliminary Injunction (Document #52)

50. Response by Bayer CropScience in Opposition of Motion by Plaintiffs for Preliminary Injunction (Document #53)
 - a. Attached – **Exhibit 1:** Modified Title V Permit to Operate
 - b. Attached – **Exhibit 2:** Report – *A Review of the Process Hazard Analysis for Bayer CropScience, LP's Methyl Isocyanate Unit in Institute, West Virginia*, by Donald K. Lorenzo, P.E., July 2010
 - c. Attached – **Exhibit 3:** Report – *A Review of the Pre-startup Safety Review for Bayer CropScience, LP's Methyl Isocyanate Unit in Institute, West Virginia*, by Donald K. Lorenzo, P.E., January 2011
 - d. Attached – **Exhibit 4:** EPA Report - Reregistration Eligibility Decision for Aldicarb
51. Certificate of Service by Plaintiffs for the Plaintiffs' Ninth Discovery Request (Document #54)
52. Exhibit from Initial Pretrial Conference Hearing – Toxicity of Methyl Isocyanate (Document #58)
53. Certificate of Service by Bayer CropScience for Bayer CropScience's Second Set of Interrogatories (Document #55)
54. Certificate of Service by Bayer CropScience for *Defendant's Fourth Production of Documents in Response to Plaintiffs' Requests for Production* (Document #56)
55. Order Granting Defendant's Motion to Exceed Page Limit for Defendant's Response in Opposition to Plaintiffs' Motion for Preliminary Injunction (Document #57)
56. Certificate of Service by Bayer CropScience for Defendant's Response to Plaintiffs' Fifth Set of Discovery Requests (Document #59)
57. Certificate of Service by Bayer CropScience for Defendant's Response to Plaintiffs' Sixth Set of Discovery Requests (Document #60)
58. Certificate of Service by Bayer CropScience for Defendant's Response to Plaintiffs' Seventh Set of Discovery Requests (Document #61)
59. Certificate of Service by Bayer CropScience for Defendant's Second Request for Production of Documents (Document #62)

Bayer CropScience Documents Initially Received

1. USB flash drive containing copies of documents provided by BCS
 - a. CSB documents
 - b. OSHA documents
 - c. EPA documents
2. Document log for documents given to CSB by BCS
3. Document log for documents given to EPA by BCS
4. Document log for documents given to OSHA by BCS
5. Incident investigation report provided to OSHA by BCS
6. Detailed incident report to Bayer Management
7. Expert conclusions regarding fate of materials released following methomyl residue treater vessel failure
8. Incident investigation report by CSB

List of Documents Provided By Bayer CropScience During the First Site Visit

1. Organizational chart of the site leadership team
2. Two hand-drawn organizational charts showing the individuals met with on the site visit
3. OSHA citations – inspection number 311684252
4. OSHA settlement – inspection number 311684252
5. Three organizational charts pertaining to the MIC start-up team
6. MIC shift turnover template
7. Two sets of drawings showing the extent of reduced MIC activity
8. Bayer CropScience PSM ‘quick reference’
9. Bayer CropScience PHA ‘quick reference’
10. PSM Hierarchy
11. Protective layers drawing – Bhopal
12. Protective layers drawing – Institute MIC Unit
13. Book – *The Black Box of Bhopal*
14. Steam/Ammonia curtain test photographs
15. List – Eleven factors in the Methomyl unit incident
16. MIC general process description – pp. 1-6
17. Emergency vent scrubber (EVS) capacity
18. Causal tree of Methomyl unit incident
19. List of available Methomyl operators
20. List of available MIC operators

21. MIC piping drawing
22. SO₂ lessons learned
23. Camera use approval form
24. Current training list – MIC training overdue
25. Flash report – near miss: January 7, 2010
26. Lesson learned – Advancing Safety Plant including Process Safety Issue 5, September 2010
27. Lesson learned – unrecognized hazards and their consequences
28. Additional pictures of Steam/Ammonia curtain, misting system, and deluge system
29. Comments on current status of CSB recommendations/remediation
30. Worksheets for water scenarios and PHA
31. Listing of exchanges in MIC unit with water
32. Simplified flow diagram of MIC
33. Draft – Bayer Institute MIC: water modeling

List of Documents Provided By Bayer CropScience During the Second Site Visit

1. Standard operating procedures – Miscellaneous MIC Administrative Procedures, pg. 3
2. Management of change form – Purchase of equipment and instrumentation for chloroform cooling system in the MIC unit
3. OSHA citation and notification of penalty, 18 January 2006
4. OSHA citation settlement, 26 May 2006
5. Scenario likelihood estimates for MIC/Water scenario
6. Fault tree diagram for MIC/Water scenario
7. Standard operating procedures (SOP) standard
8. Bayer news – *A Message from Greg Babe and Bill Buckner – Standard Operating Procedures*, 10 January 2011